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9
10 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. **2012-63**

13 **MINAXIBEN PATEL**
22212 Abrazo
14 Mission Viejo, CA 92691

A C C U S A T I O N

15 **Registered Nurse License No. 411072**

16 Respondent.
17

18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about March 31, 1987, the Board of Registered Nursing issued Registered
24 Nurse License Number 411072 to Minaxiben Patel (Respondent). The Registered Nurse License
25 was in full force and effect at all times relevant to the charges brought herein and will expire on
26 September 30, 2012, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

6. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

(a) Considering the denial of a license by the board under Section 480; or

(b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

7. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

8. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board

1 may inquire into the circumstances surrounding the commission of the crime in order
2 to fix the degree of discipline or to determine if the conviction is substantially related
to the qualifications, functions, and duties of the licensee in question.

3 As used in this section, "license" includes "certificate," "permit," "authority,"
4 and "registration."

5 9. Section 2761 of the Code states:

6 The board may take disciplinary action against a certified or licensed nurse or
7 deny an application for a certificate or license for any of the following:

8 (a) Unprofessional conduct, which includes, but is not limited to, the
9 following:

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11 (f) Conviction of a felony or of any offense substantially related to the
12 qualifications, functions, and duties of a registered nurse, in which event the record of
the conviction shall be conclusive evidence thereof.

13

14 10. Section 2765 of the Code states:

15 A plea or verdict of guilty or a conviction following a plea of nolo contendere
16 made to a charge substantially related to the qualifications, functions and duties of a
17 registered nurse is deemed to be a conviction within the meaning of this article. The
board may order the license or certificate suspended or revoked, or may decline to
18 issue a license or certificate, when the time for appeal has elapsed, or the judgment of
conviction has been affirmed on appeal or when an order granting probation is made
19 suspending the imposition of sentence, irrespective of a subsequent order under the
provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his
20 or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of
guilty, or dismissing the accusation, information or indictment.

21 REGULATORY PROVISIONS

22 11. California Code of Regulations, title 16, section 1444, states:

23 A conviction or act shall be considered to be substantially related to the
24 qualifications, functions or duties of a registered nurse if to a substantial degree it
evidences the present or potential unfitness of a registered nurse to practice in a
25 manner consistent with the public health, safety, or welfare. Such convictions or acts
shall include but not be limited to the following:

26 (a) Assaultive or abusive conduct including, but not limited to, those violations
27 listed in subdivision (d) of Penal Code Section 11160.

28 (b) Failure to comply with any mandatory reporting requirements.

1 (c) Theft, dishonesty, fraud, or deceit.

2 (d) Any conviction or act subject to an order of registration pursuant to Section
3 290 of the Penal Code.

4 12. California Code of Regulations, title 16, section 1445 states:

5

6 (b) When considering the suspension or revocation of a license on the grounds
7 that a registered nurse has been convicted of a crime, the board, in evaluating the
8 rehabilitation of such person and his/her eligibility for a license will consider the
9 following criteria:

10 (1) Nature and severity of the act(s) or offense(s).

11 (2) Total criminal record.

12 (3) The time that has elapsed since commission of the act(s) or offense(s).

13 (4) Whether the licensee has complied with any terms of parole, probation,
14 restitution or any other sanctions lawfully imposed against the licensee.

15 (5) If applicable, evidence of expungement proceedings pursuant to Section
16 1203.4 of the Penal Code.

17 (6) Evidence, if any, of rehabilitation submitted by the licensee.

18 COSTS

19 13. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
20 administrative law judge to direct a licentiate found to have committed a violation or violations of
21 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
22 enforcement of the case.

23 CAUSE FOR DISCIPLINE

24 (October 21, 2008 Criminal Conviction for Petty Theft on February 15, 2008)

25 14. Respondent has subjected her license to disciplinary action under sections 490 and
26 2761, subdivision (f) of the Code in that Respondent was convicted of a crime that is substantially
27 related to the qualifications, functions, and duties of a registered nurse. The circumstances are as
28 follows:

a. On or about October 21, 2008, in a criminal proceeding entitled *People of the
State of California v. Minaxiben Patel*, in Orange County Superior Court, case number

1 08WM04757, Respondent was convicted on her plea of guilty of violating Penal Code section
2 484(a)/488, petty theft, a misdemeanor.

3 b. As a result of the conviction, on or about October 21, 2008, Respondent was
4 sentenced to one year informal probation, and ordered to pay \$230 in fees, fines, and restitution,
5 and comply with the terms of probation. On or about July 1, 2010, Respondent's Petition for
6 Relief under Penal Code section 1203.4 was granted. The plea of guilty was set aside and the
7 case was dismissed.

8 c. The facts that led to the conviction are that on or about the afternoon of February
9 15, 2008, a loss prevention officer for a Fountain Valley grocery store observed Respondent put
10 several items of merchandise into her purse as she was shopping. Respondent proceeded to pay
11 for the items in her shopping cart, but left the store without paying for the items she concealed in
12 her purse. Respondent was intercepted by security officers outside of the store. An officer from
13 the Fountain Valley Police Department arrived and questioned Respondent. She admitted that
14 she had taken the items and gave the officer permission to search her purse. Inside her purse was
15 a metal container with several loose pills, some of which were identified as hydrocodone.
16 Respondent was issued a notice to appear and released at the scene.

17 DISCIPLINARY CONSIDERATIONS

18 15. To determine the degree of discipline, if any, to be imposed on Respondent,
19 Complainant alleges that on or about December 11, 2000, in a prior disciplinary proceeding
20 entitled *In the Matter of the Accusation Against Minaxiben Patel, R.N.*, in case number 2000-163,
21 the Board issued a decision, effective January 10, 2001, revoking Respondent's registered nurse
22 license. The revocation was stayed, and Respondent was placed on probation for a period of
23 three years on certain terms and conditions. The underlying Accusation alleged that in or about
24 January 1998, Respondent was guilty of unprofessional conduct under section 2761, subdivision
25 (a) of the Code for falsifying assessment data for a patient for a home care visit she did not make,
26 and accepted payment for the home care visit.

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1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3 and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking or suspending Registered Nurse License Number 411072, issued to
5 Minaxiben Patel;

6 2. Ordering Minaxiben Patel to pay the Board of Registered Nursing the reasonable
7 costs of the investigation and enforcement of this case, pursuant to Business and Professions
8 Code section 125.3;

9 3. Taking such other and further action as deemed necessary and proper.

10
11 DATED: July 28, 2011

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

MINAXIBEN PATEL, R.N.

Respondent.

Case No. 2000-163

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing of the Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on January 10th, 2001.

It is so ORDERED December 11th, 2000.

Sandra L. Erickson CRNA for Mary Jo Horne-Moreno

FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

1 BILL LOCKYER, Attorney General
of the State of California
2 SUSAN FITZGERALD, State Bar No. 112278
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7 Attorneys for Complainant
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10 **BEFORE THE**
BOARD OF REGISTERED NURSING
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. 2000-163

13 MINAXIBEN PATEL, R.N.

14 Respondent.
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**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 PARTIES

21 1. Complainant Ruth Ann Terry, M.P.H., R.N. is the Executive Officer of the Board
22 of Registered Nursing who brought this action solely in her official capacity and is represented in
23 this matter by Bill Lockyer, Attorney General of the State of California, by Susan Fitzgerald,
24 Deputy Attorney General.

25 2. Respondent Minaxiben Patel, R.N. ("Respondent") is represented in this matter by
26 attorney Sheila S. Trexler, Esq., whose address is Neil, Dymott, Perkins, Brown & Frank, 1010
27 Second Avenue, Suite 2500, San Diego, CA 92101-4906.

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1 3. On or about March 31, 1987, the Board of Registered Nursing issued Registered
2 Nursing License Number 411072 to Minaxiben Patel, R.N. ("Respondent"). The Registered
3 Nursing License was in full force and effect at all times relevant to the charges brought herein
4 and will expire on September 30, 2000, unless renewed.

5 JURISDICTION

6 4. Accusation, No. 2000-163, was filed before the Board of Registered Nursing of
7 the Department of Consumer Affairs, ("Board"), and is currently pending against Respondent.
8 The Accusation, together with all other statutorily required documents, was duly served on
9 Respondent on April 4, 2000, and Respondent timely filed her Notice of Defense contesting the
10 Accusation. A copy of Accusation No. 2000-163 is attached as Exhibit A and incorporated
11 herein by reference.

12 ADVISEMENT AND WAIVERS

13 5. Respondent has carefully read and discussed with her counsel the nature of the
14 charges and allegations in the Accusation and the effects of this stipulation.

15 6. Respondent is fully aware of her legal rights in this matter, including the right to a
16 hearing on the charges and allegations in the Accusation, the right to be represented by counsel,
17 at her own expense, the right to confront and cross-examine the witnesses against her, the right to
18 present evidence and to testify on her own behalf and to the issuance of subpoenas to compel the
19 attendance of witnesses and the production of documents, the right to reconsideration and court
20 review of an adverse decision, and all other rights accorded by to the California Administrative
21 Procedure Act and other applicable laws.

22 7. Respondent voluntarily, knowingly and intelligently waives and gives up each and
23 every right set forth above.

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1 CULPABILITY

2 8. Respondent understands that the charges and allegations in the Accusation, if
3 proven at a hearing, constitute cause for imposing discipline upon her Registered Nursing
4 License.

5 9. Respondent admits the truth of each and every allegation in Accusation No.
6 2000-163.

7 10. Respondent agrees that her Registered Nursing License is subject to discipline and
8 she agrees to be bound by the Board's imposition of discipline as set forth in the Order below.

9 11. The parties agree that faxed copies of this Stipulation, including faxed signatures
10 of the parties, shall be used with the same force and effect as originals.

11 CONTINGENCY

12 12. This stipulation shall be subject to the approval of the Board. Respondent
13 understands and agrees that Board of Registered Nursing's staff and counsel for complainant may
14 communicate directly with the Board regarding this stipulation and settlement, without notice to
15 or participation by Respondent or her counsel. If the Board fails to adopt this stipulation as its
16 Order, the stipulation shall be of no force or effect, it shall be inadmissible in any legal action
17 between the parties, and the Board shall not be disqualified from further action in this matter by
18 virtue of its consideration of this stipulation.

19 13. In consideration of the foregoing admissions and stipulations, the parties agree
20 that the Board shall, without further notice or formal proceeding, issue and enter the following
21 Disciplinary Order:

22 DISCIPLINARY ORDER

23 **IT IS HEREBY ORDERED** that Registered Nursing License No. 411072 issued to
24 Minaxiben Patel, R.N. is revoked. However the revocation is stayed and Respondent is placed
25 on probation for 3 years on the following terms and conditions:

26 (1) Respondent shall obey all federal, state and local laws, and all rules, and regulations
27 of the Board of Registered Nursing governing the practice of nursing in California. A full and
28 detailed account of any and all violations of law shall be reported by the respondent to the Board

1 in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance
2 with this term, respondent shall submit completed fingerprint cards and fingerprint fees within 45
3 days of the effective date of the decision, unless previously submitted as part of the licensure
4 application process.

5 (2) Respondent shall fully comply with the terms and conditions of the Probation
6 Program established by the Board and cooperate with representatives of the Board in its
7 monitoring and investigation of the respondent's compliance with the Program. Respondent shall
8 inform the Board in writing within no more than 15 days of any address change and shall at all
9 times maintain an active, current license status with the Board, including during any period of
10 suspension.

11 (3) Respondent, during the period of probation, shall appear in person at
12 interviews/meetings as directed by the Board or its designated representatives.

13 (4) Periods of residency or practice outside of California will not apply to the reduction
14 of this probationary term. The respondent must provide written notice to the Board within 15
15 days of any change of residency or practice outside the state.

16 (5) Respondent, during the period of probation, shall submit such written
17 reports/declarations and verification of actions under penalty of perjury as are required. These
18 declarations shall contain statements relative to respondent's compliance with all the terms and
19 conditions of the Board's Probation Program. Respondent shall immediately execute all release
20 of information forms as may be required by the Board or its representatives.

21 (6) Respondent, during the period of probation, shall engage in the practice of registered
22 nursing in California for a minimum of 24 hours per week for 6 consecutive months or as
23 determined by the Board.

24 For purposes of compliance with the section, "engage in the practice of registered
25 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or
26 work in any non-direct patient care position that requires licensure as a registered nurse.

27 If respondent has not complied with this condition during the probationary term and the
28 respondent has presented sufficient documentation of her good faith efforts to comply with this

1 condition, and if no other conditions have been violated, the Board, in its discretion, may grant
2 an extension of the probation term of up to one year without further hearing in order to comply
3 with this condition.

4 (7) Respondent shall obtain prior approval from the Board before commencing or
5 continuing any employment, paid or voluntary, as a registered nurse. Respondent shall cause to
6 be submitted to the Board all performance evaluations and other employment related reports as a
7 registered nurse upon request of the Board.

8 Respondent shall provide a copy of this Decision to her employer and immediate
9 supervisor before commencing or continuing any nursing or other health care related
10 employment.

11 Respondent shall notify the Board in writing within seventy-two (72) hours after she
12 obtains any nursing or other health care related employment, when such employment is not as a
13 registered nurse. Respondent shall notify the Board in writing within seventy-two (72) hours
14 after she is terminated from any registered nursing, other nursing, or other health care related
15 employment with a full explanation of the circumstances surrounding the termination.

16 (8) The Board shall be informed of and approve of the level of supervision provided to
17 the respondent while he/she is functioning as a registered nurse. The appropriate level of
18 supervision must be approved by the Board prior to commencement or continuation of work.
19 Respondent shall practice only under the direct supervision of a registered nurse in good standing
20 (no current discipline) with the Board of Registered Nursing.

21 (9) Respondent shall not work for a nurse's registry, in any private duty position as a
22 registered nurse, a temporary nurse placement agency, or for an in-house nursing pool.
23 Respondent shall not work for a licensed home health agency as a visiting nurse unless the
24 registered nursing supervision and other protections for home visits have been approved by the
25 Board. Respondent shall not work in any other registered nursing occupation where home visits
26 are required.

27 Respondent shall not work in any health care setting as a supervisor of registered nurses.
28 The Board may additionally restrict respondent from supervising licensed vocational nurses

1 and/or unlicensed assistive personnel on a case-by-case basis.

2 Respondent shall not work as a faculty member in an approved school of nursing or as an
3 instructor in a Board approved continuing education program.

4 Respondent shall work only on a regularly assigned, identified and predetermined
5 worksite(s) and shall not work in a float capacity.

6 If the respondent is working or intends to work in excess of 40 hours per week, the Board
7 may request documentation to determine whether there should be restrictions on the hours of
8 work.

9 (10) Respondent at her own expense, shall enroll in and successfully complete a
10 course(s) relevant to the practice of registered nursing no later than six months prior to the end of
11 her probationary term.

12 Respondent shall obtain prior approval from the Board before enrolling in the course(s).
13 Respondent shall submit to the Board the original transcripts or certificates of completion for the
14 above required course(s). The Board shall return the original documents to respondent after
15 photocopying them for its records.

16 (11) Respondent shall pay to the Board costs associated with its investigation and
17 enforcement pursuant to Business and Professions Code section 125.3 in the amount of
18 \$4000.00. Respondent shall be permitted to pay these costs in a payment plan approved by the
19 Board, with payments to be completed no later than three months prior to the end of the
20 probation term.

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1 (12) If Respondent violates the conditions of her probation, the Board after giving the
2 respondent notice and an opportunity to be heard, may set aside the stay order and impose the
3 stayed discipline (revocation) of respondent's license.

4 If during the period of probation, an Accusation or Petition to Revoke Probation has been
5 filed against respondent's license or the Attorney General's office has been requested to prepare
6 an Accusation or Petition to Revoke Probation against respondent's license, the probationary
7 period shall automatically be extended and shall not expire until the Accusation or Petition has
8 been acted upon by the Board. Upon successful completion of probation, the respondent's
9 license will be fully restored.

10 ACCEPTANCE

11 I have carefully read the above Stipulated Settlement and Disciplinary Order and have
12 fully discussed the terms and conditions and other matters contained therein with my attorney
13 Sheila S. Trexler, Esq., I understand the effect this stipulation will have on my Registered
14 Nursing License. I enter into this Stipulated Settlement voluntarily, knowingly and intelligently

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1 and agree to be bound by the Disciplinary Order and Decision of the Board of Registered
2 Nursing.

3 DATED: Aug 28, 2000

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5 Minaxiben Patel mlal
6 MINAXIBEN PATEL, R.N.
7 Respondent

8 I have read and fully discussed with Respondent Minaxiben Patel, R.N. the terms and
9 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order
10 and approve its form and content.

11 DATED: 8-30-00

12 Sheila S. Trexler
13 SHEILA S. TREXLER, ESQ.
14 Attorney for Respondent

15
16 ENDORSEMENT

17 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
18 submitted for consideration by the Board of Registered Nursing of the Department of Consumer
19 Affairs.

20 DATED: 9/1/00

21 BILL LOCKYER, Attorney General
22 of the State of California

23 Susan Fitzgerald
24 SUSAN FITZGERALD
25 Deputy Attorney General
26 Attorneys for Complainant

27 DOI Docket Number: SD1999AD0632
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6 Attorneys for Complainant

7
8 BEFORE THE
BOARD OF REGISTERED NURSING
9 DEPARTMENT OF CONSUMER AFFAIRS
10 STATE OF CALIFORNIA

11 In the Matter of the Accusation) NO. 2000-163
Against:)
12)
MINAXIBEN PATEL) ACCUSATION
13 10431 Circulo De Zapata)
Fountain Valley, CA 92708)
14 Registered Nurse License)
No. 411072)
15)
Respondent.)
16

17 Ruth Ann Terry, R.N., M.P.H., for causes for discipline, alleges:

18 1. Complainant Ruth Ann Terry, R.N., M.P.H., makes and files this Accusation in
19 her official capacity as Executive Officer, Board of Registered Nursing, Department of
20 Consumer Affairs.

21 2. On March 31, 1987, the Board of Registered Nursing issued Registered Nurse
22 License No. 411072 to Minaxiben Patel (respondent Patel herein). The license was in
23 full force and effect at all times pertinent herein and has been renewed through
24 September 30, 2000.

25 3. Under Business and Professions Code section 2750, the Board of Registered
26 Nursing may discipline any licensee, including a licensee holding a temporary or an
27 inactive license, for any reason provided in Article 3 of the Nursing Practice Act.

4. Under Business and Professions Code section 2764, the expiration of a license shall not deprive the board of jurisdiction to proceed with a disciplinary proceeding against the license or to render a decision imposing discipline on the license.

5. Under Business and Professions Code section 125.3, the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

6. Respondent has subjected her license to discipline under Business and Professions Code section 2761(a) on the grounds of unprofessional conduct in that while employed as a registered nurse by Lifeline Homecare/Kangaroo Kids in Santa Ana, California, she engaged in the following conduct: in or about January 1998, she falsified a patient's assessment data for a visit she did not make to a home care patient, H.M., and then submitted a false record of a home visit having been made to the home care patient and received payment therefor.

WHEREFORE, complainant prays that a hearing be held and that the Board of Registered Nursing make its order:

1. Revoking or suspending Registered Nurse License No. 411072, issued to Minaxiben Patel.

2. Ordering Minaxiben Patel to pay to the Board its costs in investigating and enforcing the case according to proof at the hearing, pursuant to Business and Professions Code section 125.3.

3. Taking such other and further action as may be deemed proper and appropriate.

DATED: March 24, 2000.

Ruth Ann Terry
RUTH ANN TERRY, R.N., M.P.H., Complainant
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California